

# PATENT COOPERATION TREATY

SYDNEY  
CD 1.1 APR 2002

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

WATERMARK PATENT & TRADEMARK  
ATTORNEYS  
Unit 1, The Village  
Riverside Corporate Park  
39 - 117 Delhi Road  
NORTH RYDE NSW 2113

PCT

NOTIFICATION OF TRANSMITTAL OF  
INTERNATIONAL PRELIMINARY EXAMINATION  
REPORT

(PCT Rule 71.1)

Date of mailing 10 APR 2002  
day/month/year

Applicant's or agent's file reference

P1784/PCT/AU/PNF/MB

IMPORTANT NOTIFICATION

International Application No.

PCT/AU01/01032

International Filing Date

21 August 2001

Priority Date

21 August 2000

Applicant

COCHLEAR LIMITED et al

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translations to those Offices.

## 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/TB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide

Name and mailing address of the IPEA/AU

AUSTRALIAN PATENT OFFICE  
PO BOX 200, WODEN ACT 2606, AUSTRALIA  
E-mail address: pct@ipaaustralia.gov.au  
Facsimile No. (02) 6285 3929

Authorized officer

J. Law

Telephone No. (02) 6283 2179

PATENT COOPERATION TREATY  
**PCT**  
INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P17847PCAU/PNF/MB	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. PCT/AU01/01032	International Filing Date ( <i>day/month/year</i> ) 21 August 2001	Priority Date ( <i>day/month/year</i> ) 21 August 2000
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> H04R 25/00, A61F 11/04		
Applicant COCHLEAR LIMITED et al		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of 3 sheets, including this cover sheet. <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of sheet(s).	
3.	This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application	

Date of submission of the demand 13 March 2002	Date of completion of the report 2 April 2002
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  J. Law Telephone No. (02) 6283 2179

**I. Basis of the report****1. With regard to the elements of the international application:\***☒ the international application as originally filed.☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).☐ the language of publication of the international application (under Rule 48.3(b)).☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**☐ contained in the international application in written form.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority in written form.☐ furnished subsequently to this Authority in computer readable form.☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished**4. ☐ The amendments have resulted in the cancellation of:**☐ the description, pages☐ the claims, Nos.☐ the drawings, sheets/fig.**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-14	YES
	Claims	NO
Inventive step (IS)	Claims 1-14	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-14	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**Claims 1-14

~~The invention of the claims is a method for neural stimulation. When factors indicative of a likely masking effect in a stimulus set are detected, the masked stimulus set is altered.~~

No individual citation or obvious combination of citations disclose altering of stimuli when masking effects in stimuli are detected.

The closest art of:

WO 96/12383 A1

shows the selection of a stimulus set in response to an acoustic signal such that a patient's response to the stimulus set has a time domain response which is an approximation to the time domain response of a normal hearing person to the acoustic signal.

WO 95/01709 A1 and WO 93/24176 A1 are further documents defining the general state of the art.

PATENT COOPERATION TREATY  
**PCT**  
INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>P17847PCAU/PNF/MB</b>	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. <b>PCT/AU01/01032</b>	International Filing Date (day/month/year) <b>21 August 2001</b>	Priority Date (day/month/year) <b>21 August 2000</b>
International Patent Classification (IPC) or national classification and IPC <b>Int. CL<sup>7</sup> H04R 25/00, A61F 11/04</b>		
Applicant <b>COCHLEAR LIMITED et al</b>		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <b>3</b> sheets, including this cover sheet.  <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <b>  </b> sheet(s).
3.	This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand <b>13 March 2002</b>	Date of completion of the report <b>2 April 2002</b>
Name and mailing address of the IPEA/AU <b>AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929</b>	Authorized Officer  <b>J. Law</b> Telephone No. (02) 6283 2179

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-14	YES
	Claims	NO
Inventive step (IS)	Claims 1-14	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-14	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**Claims 1-14

~~The invention of the claims is a method for neural stimulation. When factors indicative of a likely masking effect in a stimulus set are detected, the masked stimulus set is altered.~~

No individual citation or obvious combination of citations disclose altering of stimuli when masking effects in stimuli are detected.

The closest art of:

WO 96/12383 A1

shows the selection of a stimulus set in response to an acoustic signal such that a patient's response to the stimulus set has a time domain response which is an approximation to the time domain response of a normal hearing person to the acoustic signal.

WO 95/01709 A1 and WO 93/24176 A1 are further documents defining the general state of the art.

**THIS PAGE BLANK (USPTO)**